

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

|                                 |   |                              |
|---------------------------------|---|------------------------------|
| STANLEY HERBERT                 | : | CASE NO. C-1-00-855          |
|                                 | : |                              |
| Plaintiff,                      | : | Magistrate Judge Hogan       |
|                                 | : |                              |
| vs.                             | : |                              |
|                                 | : | <u>PLAINTIFF'S MOTION TO</u> |
| MILFORD TOWING & SERVICE, INC., | : | <u>FILE SUPPLEMENTAL</u>     |
| et. al,                         | : | <u>MEMORANDUM</u>            |
|                                 | : |                              |
| Defendants.                     | : |                              |

Plaintiff moves to file a supplemental memorandum of law in response to Defendants' Reply Memorandum (Doc. 63).

Defendants' Reply Memorandum in support of excluding evidence relating to plaintiff's emotional distress, his visits to Clermont County Clinic and testimony of Jennifer Wilhem (Doc. 63) raises a new issue that was not included in their motion in limine (Doc. 49). On page 2 of their reply, defendants argue that "Jennifer Wilhem is not a witness who has been identified as an expert who can testify pursuant to Fed.R.Civ.P. 26."

Plaintiff has not been accorded an opportunity to respond to this issue and seeks to file the attached Supplemental Memorandum.

Respectfully submitted,

s/Robert F. Laufman  
Robert F. Laufman (0019699)  
Jennifer Branch (0038893)  
Trial Attorney for Plaintiff  
Laufman & Gerhardstein  
1409 Enquirer Building  
617 Vine Street  
Cincinnati, Ohio 45202  
(513) 621-9100  
Fax: (513) 345-5543

**CERTIFICATE OF SERVICE**

I hereby certify that on this 22nd day of October, 2003, a copy of the foregoing Plaintiff's Motion to File Supplemental Memorandum was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of this Court's electronic filing system. Parties may access this filing through the Court's system. I further certify that a copy of the foregoing has been served by ordinary U.S. Mail upon all parties for whom counsel has not yet entered an appearance.

s/Robert F. Laufman  
Robert F. Laufman, #0019699  
Laufman & Gerhardstein  
1409 Enquirer Building  
617 Vine Street  
Cincinnati, Ohio 45202  
(513) 621-9100  
FAX (513) 345-5543